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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 MANUEL L. GARCIA,

8 Plaintiff,

9 v.

10 NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

11
12 Defendant.

Case No. 2:18-cv-02226-JCM-GWF

ORDER

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14 This matter is before the Court on Plaintiff's Application to Proceed In Forma Pauperis
15 (ECF No. 1), filed on November 20, 2018.

16 **BACKGROUND**

17 Plaintiff alleges a claim against the Social Security Administration (SSA), challenging its
18 denial of disability insurance benefits and supplemental security income. Plaintiff alleges that at
19 all times relevant to this action, he was disabled as defined by the Social Security Act. Plaintiff
20 claims that the Social Security Commissioner, initially and upon reconsideration, denied his
21 applications for disability insurance benefits. Plaintiff states that he timely requested review of
22 the ALJ's decision with the Appeals Council, which was denied on September 26, 2018.
23 Plaintiff now seeks judicial review of that final agency decision.

24 **DISCUSSION**

25 **I. Application to Proceed *In Forma Pauperis***

26 Plaintiff filed this instant action and attached a financial affidavit to his application and
27 complaint as required by 28 U.S.C. § 1915(a). Having reviewed Plaintiff's financial affidavit
28 pursuant to 28 U.S.C. § 1915, the Court finds that Plaintiff is unable to pre-pay the filing fee.

1 Therefore, Plaintiff's request to proceed *in forma pauperis* in federal court is granted.

2 **II. Complaint**

3 Plaintiff brings suit against the SSA alleging that he was wrongfully denied disability
4 insurance benefits and supplemental security income. Federal courts only have jurisdiction to
5 conduct judicial review of the SSA's final decisions. *See* 42 U.S.C. § 405(g); *Klemm v. Astrue*,
6 543 F.3d 1139, 1144 (9th Cir. 2008); *see also Cilifano v. Sanders*, 430 U.S. 99, 107–09 (1977).
7 Plaintiff appears to have fully exhausted his administrative remedies with the SSA. The Court
8 will therefore allow Plaintiff's complaint to proceed as a petition for judicial review of a final
9 agency decision. Accordingly,

10 **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis*
11 (ECF No. 1) is **granted**. Plaintiff shall not be required to pre-pay the full filing fee of four
12 hundred dollars (\$400.00).

13 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint (ECF
14 No. 1-1).

15 **IT IS FURTHER ORDERED** that the Clerk of the Court shall serve the Commissioner
16 of the Social Security Administration by sending a copy of summons and Complaint by certified
17 mail to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration,
18 160 Spear Street, Suite 899, San Francisco, California 94105, and (2) the Attorney General of the
19 United States, Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.


20 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue summons to the
21 United States Attorney for the District of Nevada, and deliver the summons and Complaint to the
22 U.S. Marshal for service.

23 **IT IS FURTHER ORDERED** that Defendants shall have **sixty (60) days** from the date
24 of service to file their answer or responsive pleading to Plaintiff's Complaint in this case.

25 **IT IS FURTHER ORDERED** that henceforth, Plaintiff shall serve upon Defendant, or
26 their attorney if they have retained one, a copy of every pleading, motion, or other document
27 submitted for consideration by the court. Plaintiff shall include with the original paper submitted
28 for filing a certificate stating the date that a true and correct copy of the document was mailed to

1 Defendant or their counsel. The court may disregard any paper received by a district judge,
2 magistrate judge, or the Clerk which fails to include a certificate of service.

3 Dated this 25th day of January, 2019.

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6 GEORGE FOLEY, JR.
7 UNITED STATES MAGISTRATE JUDGE
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